

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

NAZOMI COMMUNICATIONS, INC.,

No. C 10-05545 WHA

Plaintiff,

v.

SAMSUNG TELECOMMUNICATIONS
AMERICA, LLC, SAMSUNG
ELECTRONICS CO., LTD., SAMSUNG
ELECTRONICS AMERICA, INC.,
HTC CORP., HTC AMERICA, INC.,
LG ELECTRONICS, INC.,
LG ELECTRONICS MOBILECOMM
U.S.A., INC., and KYOCERA
COMMUNICATIONS INC.,

**ORDER TO SHOW CAUSE
WHY THE CLAIMS IN THIS
MULTI-DEFENDANT ACTION
SHOULD NOT BE SEVERED**

Defendants.

/

This action was filed in October 2010 and was reassigned to the undersigned judge in September 2011. The operative complaint accuses four separate groups of corporate defendants of independent acts that allegedly constitute infringement of plaintiff's three patents. The four defendant groups are unrelated corporate families that sell unrelated products. Significantly, they are not alleged to have acted in concert to infringe plaintiff's asserted patents. They share no common transaction or occurrence.

As set forth in FRCP 20(a)(2), multiple defendants may be joined together in one action if "(A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences;

United States District Court

For the Northern District of California

1 and (B) any question of law or fact common to all defendants will arise in the action.” In
2 situations of misjoinder and nonjoinder of parties, FRCP 21 provides that “[o]n motion or on its
3 own, the court may at any time, on just terms, add or drop a party.” The fact that separate parties
4 manufacture, sell, or operate similar products that may infringe identical patents is not necessarily
5 sufficient to join unrelated parties as defendants in the same lawsuit pursuant to Rule 20(a).
6 *See WiAV Networks, LLC v. 3Com Corp.*, No. C 10-03448 WHA, 2010 WL 3895047
7 (N.D. Cal. Oct. 1, 2010).

8 Plaintiff is therefore **ORDERED TO SHOW CAUSE** why all but the first-named Samsung
9 defendants should not be dismissed for misjoinder pursuant to FRCP 21. Plaintiff must file its
10 response by **NOON ON OCTOBER 11, 2011**. Defendants may file any replies by **NOON ON**
11 **OCTOBER 18, 2011**.

12
13
14 **IT IS SO ORDERED.**

15
16 Dated: September 28, 2011.

17
18
19
20
21
22
23
24
25
26
27
28



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE